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**FEDERAL FACILITY COMPLIANCE  
AGREEMENT/NESHAP**

**02/13/91**

**DOE-683-91  
DOE-FMPC/USEPA  
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LETTER**



FEB 15 1991

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DOE-683-91

Mr. Valdas Adamkus  
U. S. Environmental Protection Agency  
Region V - 5RA-14  
230 South Dearborn Street  
Chicago, IL 60604

cc: ERA File  
AK File

Dear Mr. Adamkus:

**FEDERAL FACILITY COMPLIANCE AGREEMENT/NESHAP**

Since 1988, DOE and U. S. EPA (Region V) have been negotiating a Federal Facility Compliance Agreement (FFCA), for the Clean Air Act compliance issues at the Feed Materials Production Center (FMPC). The proposed FFCA was intended to cover both stationary source applications under 40 CFR Part 61, Subpart H and the control of radon emissions under 40 CFR Part 61, Subpart Q. For the reasons discussed below, the FMPC is proposing that negotiations on the FFCA be ended because (1) outstanding Subpart H compliance issues have been addressed outside the FFCA, and (2) the radon issues may be more appropriately addressed through the ongoing CERCLA process.

**BACKGROUND**

Regulations governing radionuclide emissions were issued by U. S. EPA in February 1985. All radionuclide sources which were constructed or modified after that date had to obtain U. S. EPA approval based upon submission of a detailed analysis of emissions and off-site dose (Subpart H applications). To address compliance issues with these regulations, negotiations on a proposed FFCA for Subpart H began in the summer of 1987.

In August 1988, FMPC submitted 14 Subpart H applications to U. S. EPA, followed by two in November and another in December. Between December 1988 and January 1989, U. S. EPA informed DOE that the applications were denied because the application data was deficient and incomplete. In February 1989, U. S. EPA issued a Finding of Violation (FOV) to DOE for submitting 14 of the 17 applications in an untimely manner and advised DOE not to operate the 17 equipment installations until U. S. EPA had granted approval. By February 1990, applications had been resubmitted for 11 of the original 17 sources (the other six were cancelled or rendered inoperable), and all 11 were approved by U. S. EPA by May 1990. At present, there are no outstanding Subpart H applications.

By fall 1989, all major issues had been resolved, and the FFCA could have been finalized. However, because the radon and revised radionuclide regulations were to be issued in December 1989, U. S. EPA elected to delay completion of the FFCA so that radon issues could be addressed in the FFCA. Throughout 1990 the agencies have primarily negotiated the radon issue and further defined the Subpart H application process. During these negotiations, DOE has agreed to measure radon flux from the waste pits and to conduct a removal site evaluation for silo 3 (silos 1 and 2 are part of an Engineering Evaluation/Cost Analysis accomplished under the CERCLA Consent Agreement and approved by the U. S. EPA).

#### REGULATORY GUIDANCE

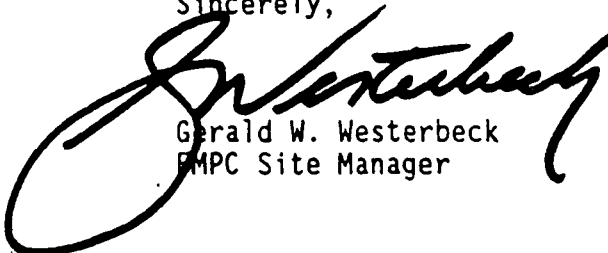
The radon NESHAP regulations recognize that oversight of DOE sites through the CERCLA program is sufficient to protect public health; reference is also made to the fact that cleanup agreements under CERCLA are being negotiated between U. S. EPA and DOE. At the time the FFCA/NESHAP was under negotiation, the Consent Agreement (CA) under CERCLA Section 120 and 106 (a) was also being negotiated. Because the FFCA/NESHAP was thought to be close to completion, the CA in Section XXX1.8 merely acknowledged that radon emissions are subject to a "future compliance agreement."

If the radon regulations had been issued at an earlier stage of the negotiations, the CA would have included the radon flux standard and the associated requirements. U. S. EPA's NESHAP regulations state in the preamble that compliance with radon emissions is to be achieved through remediation under CERCLA; therefore, the Subpart Q radon requirements can be implemented through modification of the CA. This recommendation is consistent with an understanding between U. S. EPA/HQ and DOE/HQ that compliance with the radon flux standard will generally be achieved through application of the CERCLA process.

#### PROPOSAL

In view of the above we believe that the FFCA is no longer required to address Subpart H applications and that the CA can be modified to specifically recognize the achievement of the radon flux standard through the CERCLA remediation effort. Should your staff have any questions, please contact Bobby Davis at FTS 774-6156.

Sincerely,



Gerald W. Westerbeck  
EMPC Site Manager

DP-84:Shroff

cc:

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